

FILED  
U.S. DISTRICT COURT  
2005 DEC -7 P 3:31

CLERK OF UTAH  
CLERK

THOM D. ROBERTS (#2773)  
Assistant Attorney General  
MARK L. SHURTLEFF (#4666)  
Attorney General  
160 East 300 South, 5th Floor  
P.O. Box 140857  
Salt Lake City, Utah 84114-0857  
*Attorney For Defendants*

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION**

FREE SPEECH COALITION, INC., A California  
Not-For-Profit Trade Association, On Its Own  
Behalf and On Behalf of Its Members,

Plaintiff,

vs.

THE STATE OF UTAH, a body politic; THE  
UTAH DEPARTMENT OF COMMERCE, a  
department in the executive brnch of the State of  
Utah; THE DIVISION OF CONSUMER  
PROTECTION, an administrative agency in the  
Utah Department of Commerce; MARK  
SHURTLEFF in his official capacity as Utah  
attorney General of the State of Utah;  
GRANCINE GIANI, in her official capacity as the  
Executive Director of the utah Department of  
Commerce, and in her official capacity as the  
Director of the Division of Consumer Protection  
in the Utah Department of Commerce,

Defendants.

**MOTION TO DISMISS (CASE OR  
CONTROVERSY AND  
STANDING)**

Judge Tena Campbell

Case No. 2:05CV00949

The Defendants by and through their attorney of record, Thom D. Roberts, Assistant Utah Attorney General, hereby move the court for an order dismissing the action against these defendants upon the grounds and for the reasons that the Court lacks jurisdiction and authority to hear this matter, that there is no case or controversy, that the Plaintiff lacks standing to bring this action, that the claim is not justiciable, and as more fully set forth in the Memorandum filed in support hereof.

Dated this 17<sup>th</sup> day of December, 2005.

MARK L. SHURTLEFF  
Attorney General

A handwritten signature in black ink, appearing to read 'TDR', is written over a horizontal line.

THOM D. ROBERTS  
Assistant Attorney General  
Attorneys for State Defendants

CERTIFICATE OF SERVICE

I hereby certify that a copy of the MOTION TO DISMISS (CASE OR CONTROVERSY AND STANDING) was sent by U.S. Postal Service first class mail, prepaid, and email on this the 7<sup>th</sup> day of December, 2005.

Ira P. Rothken, Esq. (Pro Hac Vice)  
ROTHKEN LAW FIRM  
1050 Northgate Drive, Suite 520  
San Rafael, CA 94903

Gregory A. Piccionelli, Esq. (Pro Hac Vice)  
Robert A. Sarno, Esq. (Pro Hac Vice)  
PICCIONELLI & SARNO  
1925 Century Park East 2350  
Los Angeles, CA 90067

Jerome Mooney, Esq.  
MOONEY LAW FIRM  
50 W. Broadway, #100  
Salt Lake City, UT 84101

A handwritten signature in cursive script, appearing to read "Cassie Smith", is written over a horizontal line.